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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/596,045

05/26/2006

Maria Josephina Engelen

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P. O. Box 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

NGUYEN, MAIKHANH

ART UNIT

PAPER NUMBER

2176

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/596,045	<b>Applicant(s)</b> ENGELEN ET AL.	
	<b>Examiner</b> Maikhanh Nguyen	<b>Art Unit</b> 2176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/26/2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is responsive to the application and Preliminary Amendment filed 05/26/2006.

Claims 1-11 are currently pending. Claims 1 and 10 are independent claims.

### **Information Disclosure Statement**

2. The Applicants' Information Disclosure Statement filed 05/26/2006 has been received, entered into the record, and considered. A copy of PTO form 1449 is attached.

### **Specification**

3. The Specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The specification is objected to because of the following informalities: The arrangement of the Specification is not correct as it lacks section headings.

The following guidelines illustrate the preferred layout for the Specification of a utility application. The guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the Specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.

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- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

Appropriate correction is required.

The specification is also objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the recited “*memory*” of Claim 1 and “software carrier” of Claim 11. The Specification does not mention the recited “memory” and “software carrier”. Thus, there is no support or antecedent basis for the recited “*memory*” and “software carrier” that allow the meaning of the term to be ascertained, as required in 37 CFR 1.75(d)(1).

The abstract of the disclosure is objected to because it does not describe the invention. Correction is required. See MPEP § 608.01(b).

### Claim Objections

4. Claims 1 and 10 are objected to because of the following informalities:
- each element or step of the claim should be separated by a line indentation. See 37 CFR 1.75 and MPEP § 608.01(m).
  - the phrase “*the validation software is executable separately and independent from the processing software*” should read “*the validation software is executed separately and independently from the processing software*”.

Appropriate correction is required.

### Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

*Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.*

Claims 10 and 11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

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**Regarding Claim 10**, the claim recites “*application program*” comprising “processing software” and “validation software”. The claim is directed to software per se and is not a “process,” a “machine,” a “manufacture” or a “composition of matter,” as defined in 35 U.S.C. 101.

Accordingly, Claim 10 fails to recite statutory subject matter under 35 U.S.C. 101.

Regarding Claim 11, the claim recites “software carrier”. The invention recited in Claim 10 is nonstatutory because the “software carrier” covers signals, carrier waves and other forms of transmission media. Thus, the recited “software carrier” of Claim 11 is not a “process,” a “machine,” a “manufacture” or a “composition of matter,” as defined in 35 U.S.C. 101.

Accordingly, Claim 11 fails to recite statutory subject matter under 35 U.S.C. 101.

### **Claim Rejections - 35 USC § 112**

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

*The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.*

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Claims 1- 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Regarding independent Claims 1 and 10:** the phrase “*the validation software is executable separately*” renders the Claims indefinite because it is unclear if *the validation software is actually executed*.

Dependent claims 2-9 and 11 are rejected for fully incorporating the deficiencies of their base claims.

### **Claim Rejections - 35 USC § 103**

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over

**Applicant's Admitted Prior Art** (hereinafter, “Admission”) in view of

**O'Rourke** (US 7225408, filed 08/27/2001).



**As to claim 1:**

Admission teaches data processing system comprising a computer having a memory for storage and retrieval of at least one application program embodying a pre-determined functionality (*e.g., a computer having a memory for storage and retrieval of at least one application program embodying a predetermined functionality*), and for storage and retrieval of at least one data-file (*e.g., for storage and retrieval of at least one data-file*), which computer comprises a user interface for entertaining communication between the computer and a user of said computer (*e.g., Such known computer comprises also a user interface for entertaining communication between the computer and the user of said computer*) [See Page 4, lines 18-22], whereby the at least one application program comprises validation software for checking and enabling the operability of said application program in connection with the at least one data-file (*e.g., validation software for checking and enabling the operability of this application program in connection with the concerning data-file*), and processing software for executing the said functionality in connection with the at least one data-file in dependence of said enabling by the validation software (*e.g., whereby processing software of the application program embodying a predetermined functionality in connection with the data-file only becomes operable in dependence of same being enabled by the validation software which is executed immediately prior to the processing software*) [See Page 2, lines 1-11 and Page 4, lines 26-31].

Admission does not specifically teaches “the validation software is executable separately and independent from the processing software.”

O'Rourke discloses the validation software is executable separately and independent from the processing software *[See Col. 4, line 7 – 57 and Col. 6, lines 4- 51 & Fig. 1.]*

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Admission with O'Rourke because it would have facilitated the secure access, transfer and update of patient record information and the creation and navigation of image menus supporting the location and access of desired patient record data by a user.

**As to claim 2:**

Admission teaches the user interface is capable to start execution of the validation software and after completion thereof communicate a result of the execution to the user *(See Specification; Page 1, lines 12- 18 and Page 2, lines 1-11.)*

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**As to claim 3:**

Admission teaches the user interface is capable to start execution of the validation software and/or to start execution of the validation software immediately followed by execution of the processing software (*See Specification; Page 2, Lines 1-11.*)

**As to claim 4:**

The combination of Admission with O'Rourke teaches upon selection of an application program the user interface starts execution of the validation software of said application program in connection with all available data sets and after completion thereof communicates the data- file or data-files that are operable in connection with said application program [*See O'Rourke; Col. 4, Line 37 – Col. 6, Line 33.*]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Admission with O'Rourke because it would have facilitated the secure access, transfer and update of patient record information and the creation and navigation of image menus supporting the location and access of desired patient record data by a user.

**As to claim 5:**

Admission teaches upon selection of a data-file the user interface starts

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execution of the validation software of all available application programs and after completion thereof communicates the application program or programs that are operable in connection with said data-file *[See Specification; Page 4, Lines 18-30 → a user interface for entertaining communication between the computer and the user of said computer. To this end a visual display unit may be connected to the computer for making the information accessible to the user ... the application programs that are operable on the computer comprise validation software for checking and enabling the operability of these application programs in connection with the available data-files as well as processing software for executing the functionality of these application programs in connection with the applicable data-files.]*

**As to claim 6:**

Admission teaches the user interface has a memory for storage and retrieval of a result or results from executing the validation software *[See Specification; Page 4, Lines 18-25 → a computer having a memory for storage and retrieval of at least one application program embodying a predetermined functionality ... a user interface for entertaining communication between the computer and the user of said computer.]*

**As to claim 7:**

The combination of Admission with O'Rourke teaches the at least one application program and the at least one data-file relate to medical information [See *O'Rourke: Col. 4, Lines 37 – 57 and Col. 6, Lines 52 – Col. 7, Line 30.*]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Admission with O'Rourke because it would have facilitated the secure access, transfer and update of patient record information and the creation and navigation of image menus supporting the location and access of desired patient record data by a user.

**As to claim 8:**

The combination of Admission with O'Rourke teaches the medical information is medical diagnostic information [See *O'Rourke: Col. 5, Lines 15 -37 and Col. 7, Lines 8 -49.*]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Admission with O'Rourke because it would have facilitated the secure access, transfer and update of patient record information and the creation and navigation of image menus supporting the location and access of desired patient record data by a user.

**As to claim 9:**

The combination of Admission with O'Rourke teaches the at least one data-file contains information derived with an apparatus selected, among other things, CT  
*[See O'Rourke: Col. 7, Lines 8 -30 → CT scans.]*

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Admission with O'Rourke because it would have facilitated the secure access, transfer and update of patient record information and the creation and navigation of image menus supporting the location and access of desired patient record data by a user.

**As to claim 10:**

Admission teaches application program for use on a computer in connection with a data-file (*e.g., a certain application program may be combined with a certain data-file occurs immediately following the start of execution of the application program in connection with such a data-file*), comprising processing software embodying a pre-determined functionality, and validation software for checking and enabling the operability of said processing software in connection with said data-file (*e.g., comprises validation software for checking and enabling the operability of this application program in connection with the concerning data-file,*

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*whereby processing software of the application program embodying a predetermined functionality in connection with the data-file).*

Admission does not specifically teaches the validation software is executable separately and independent from the processing software.

O'Rourke discloses the validation software is executable separately and independent from the processing software [See Col. 4, line 7 – 57 and Col. 6, lines 4- 51 & Fig. 1.]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Admission with O'Rourke because it would have facilitated the secure access, transfer and update of patient record information and the creation and navigation of image menus supporting the location and access of desired patient record data by a user.

**As to claim 11:**

Admission teaches software-carrier provided with the application program [See Specification; Page 1, Lines 7-19.]

### **Conclusion**

8. The prior art made of record, listed on PTO 892 provided to Applicant is considered to have relevancy to the claimed invention. Applicant should review each identified reference carefully before responding to this office action to properly advance the case in light of the prior art.

### **Contact information**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maikhanh Nguyen whose telephone number is (571) 272-4093. The examiner can normally be reached on Monday - Friday from 9:00am – 5:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Hutton can be reached at (571) 272-4137.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or



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/Maikhanh Nguyen/  
Examiner, Art Unit 2176

/DOUG HUTTON/  
Supervisory Patent Examiner, Art Unit 2176